**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 2290**

**DATE OF QUESTION PAPER: 16 OCTOBER 2020**

**DATE OF SUBMISSION: 30 OCTOBER 2020**

**Mr M G E Hendricks (Al Jamah-ah) to ask the Minister of Justice and Correctional Services:**

1. Whether, given that nearly a year ago the Western Cape Director of Public Prosecutions accepted and handed over the memorandum on the killing of Imam Abdullah Haron to the SA Police Service (SAPS) to verify the statements given and to ascertain the whereabouts of SAPS members who testified in the 1970 inquest and that there has been little progress, he will release the information (details furnished) on the security policemen who worked at the Maitland Police Station at the time when Imam Haron was killed; if not, what is the position in this regard, if so, what are the further relevant details;
2. whether the investigations into the infamous security policeman Spyker van Wyk and his brother have conclusively found, in consultation with the records of the Department of Home Affairs, that they are in fact deceased; if not, what is the position in this regard; if so, what are the relevant details;
3. whether the family of the deceased policemen has shared with the SAPS any documents that may assist in the new inquest to allow for the families to meet in a genuine case of reconciliation; if not, what is the position in this regard; if so, what are the relevant details;
4. whether he has found that the reasons that no perpetrator of Apartheid-era killings of leaders such as Imam Haron, Mr Steve Biko, Mr Suliman Babla Saloogee and hundreds of others have not been prosecuted because the National Prosecuting Authority has (a) funding issues, (b) a lack of human resources, (c) a failed approach of decentralising prosecution, (d) a lack of capacity and (e) ongoing lack of interest and/or a lack of will; if not, what is the position in this regard; if so, what are the relevant details;
5. whether there was any other agreement, secret or otherwise, that granted amnesty to those security policemen identified during the Truth and Reconciliation Commission that should have been prosecuted; if not, what is the position in this regard; if so, was the agreement legal or political?

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**REPLY:**

1. The National Director of Pubic Prosecutions informed me that as a result of representations made by a law firm acting on behalf of the relatives of the victim, the matter was referred to the Director of Public Prosecutions (DPP): Western Cape in July 2019. The matter is under investigation and is being guided by a senior member of the DPP’s office. Once the investigation has been concluded, a decision will be made whether to re-open the inquest or prosecute if prosecution is still viable at that stage. Further information cannot be divulged pending the conclusion of the investigation.
2. The information cannot be disclosed at this stage as it forms part of an ongoing investigation.
3. The information cannot be disclosed at this stage as it forms part of an ongoing investigation.
4. The circumstances relating to the deaths in detention of Mr Steve Biko and Mr Saloogee are currently under investigation by the Directorate of Priority Crimes Investigations (DPCI), guided by the NPA. Once the investigations have been concluded, which are receiving priority attention, decisions regarding the re-opening of the inquests or instituting prosecutions will be taken, if the latter is viable. In fact, several other deaths in detention are currently under investigation, and two (2) inquests have already been re-opened (i.e. Ahmed Timol and Dr Neil Aggett). In the Timol matter, prosecution has been instituted pursuant to the inquest. Prosecutions in cases relating to atrocities committed during the apartheid era remains a top priority for the NPA, and are included in the Strategic Plan of the National Prosecuting Service.

The NPA has embarked on a process which will result in all the deaths in detention dealt with by the Truth and Reconciliation Commission (TRC) being investigated. In addition, prosecution has been instituted relating to the murder of Nokuthula Simelane. The TRC acknowledged that the majority of amnesty applications came from convicted persons. This was as a result of investigations conducted by the South African Police Service and prosecutions instituted by the NPA. With that said, it must be acknowledged that there are serious issues with funding and a lack of human resources both in the NPA and DPCI which is primarily responsible for the investigations. The decentralised model for prosecutions is intended to address the lack of capacity in the NPA and its effectiveness will be evaluated in due course. For now, it is provided with much needed additional resources in the regions where cases are because the lapse of time means that witnesses and suspects are dying whereas loved ones are seeking justice. This needs to be urgently addressed hence the NPA is engaging with the DPCI.

1. The NPA is unaware of such an agreement.